

Special Dietary Needs/Disabled

Meal Substitutions for Medical or Other Special Dietary Reasons

Child Nutrition Program regulations require participating School Food Authorities (SFA) to offer to all participants breakfasts, lunches, suppers, supplements and milk that meet the meal requirements identified in the program regulations. Departmental regulations further require substitutions to the standard meal requirements for participants who are considered disabled and whose disability restricts their diet and permit substitutions for other participants who are not disabled but are unable to consume regular program meals because of medical or other special dietary needs.

The provisions requiring substitutions for disabled participants respond to the requirements of Section 504 of the Rehabilitation Act of 1973. Subsequently, Congress passed the Education of the Handicapped Act, (now the Individuals with Disabilities Education Act), which requires that a free and appropriate public education be provided for children with disabilities and the Americans with Disabilities Act, a comprehensive law which broadens and extends civil rights protections for Americans with disabilities.

The U. S. Department of Agriculture's nondiscrimination regulation (7 CFR 15b), as well as the regulations governing the National School Lunch Program and School Breakfast Program, make it clear that substitutions to the regular meal must be made for children who are unable to eat school meals because of their disabilities, when that need is certified by a licensed physician.

SFAs are required to offer program meals to participants with disabilities whenever program meals are offered to the general populations served by the programs. SFAs should be aware that the Individuals with Disabilities Education Act (IDEA) imposes requirements on states that may affect them, including the service of meals even when

such service is not required by the Child Nutrition Programs.

For example, the individualized education program developed for a student under the IDEA may require a meal to be served outside of the regular meal schedule for program meals or may require a breakfast to be served in a school that does not participate in the School Breakfast Program. While the school may not claim these meals as program meals, it may use the same food service facilities or food service management company to provide these meals as it uses to provide program meals, and program funds may be used to pay for the costs associated with the IDEA-required meals.

Important Point!

Accommodating Children with Special Dietary Needs in the School Nutrition Programs, Guidance for School Food Service Staff was updated and issued by USDA in Fall 2001. This publication contains detailed information on school food service responsibility in relation to special needs and disabled students.

This publication was mailed to all SFAs in South Carolina and may also be accessed on the South Carolina School Food Service and Nutrition Web Site under "Online Publications" at URL:

<http://www.myschools.com/offices/sfsn>

Disabled Participants

A “person with a disability” is defined as any person who has “a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.” Major life activities covered by this definition include caring for one’s self, eating, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. SFAs participating in the Child Nutrition Programs are required to make substitutions or modifications to the meal requirements for those participants with disabilities who are unable to consume the meals offered to nondisabled participants.

Determinations of whether a participant has a disability that restricts his or her diet are to be made on an individual basis by a licensed physician. The physician’s medical statement of the participant’s disability must be based on the regulatory criteria for “disabled person” and contain a finding that the disability restricts the participant’s diet. In the cases where SFA staff have consulted with the physician issuing the statement and it is still unclear whether the statement meets the regulatory criteria, the

SFA may consult the South Carolina Department of Education, Office of School Food Services and Nutrition.

The SFA should provide parents or guardians with 7 CFR Part 15b.3, so that their physicians may correctly assess whether an individual’s disability meets the regulatory criteria. A reproducible copy of 7CFR Part 15b.3 may be found in *Accommodating Children with Special Dietary Needs in the School Nutrition Programs, Guidance for School Food Service Staff*, Exhibit A, page 47–48. It is suggested that SFAs consider the use of the services of a Registered Dietitian to assist in implementing the medical statement, as appropriate.

Generally, participants with food allergies or intolerances or obese participants are not “disabled persons,” and SFAs are not required to make substitutions for them. However, if a physician assesses that food allergies may result in severe, life-threatening reactions (anaphylactic reactions) or the obesity is severe enough to substantially limit a major life activity, the participant then meets the definition of “disabled person,” and the food service personnel must make the substitutions prescribed by the physician.

A participant whose disability restricts his or her diet shall be provided substitutions in foods only when supported by a statement signed by a licensed physician. The medical statement shall identify:

- A. The participant’s disability and an explanation of why the disability restricts the participant’s diet;
- B. The major life activity affected by the disability; and
- C. The food or foods to be omitted from the participant’s diet, and the food or choice of foods that must be substituted. If the disability would require caloric modifications or the substitution of a liquid nutritive formula, for example, this information must be included in the statement. If the disabled participant requires only textural modification(s) to the regular program meal, as opposed to a meal requirement modification, the medical statement is recommended but not required. In such cases, the purpose of the statement is to assist the SFA in providing the appropriate textural modification(s). Unless otherwise specified by the physician, the meals modified for texture will consist only of food items and quantities specified in the regular menus.

Participants With Other Special Dietary Needs

The SFA may, at its discretion, make substitutions for individual participants who are not “disabled persons” but are unable to consume a food item because of medical or other special dietary needs. Such substitutions may only be made on a case-by-case basis when supported by a statement signed by a recognized medical authority. In these cases, recognized medical authorities may include physicians, physician assistants or nurse practitioners.

SFAs are not required to make substitutions for participants whose conditions do not meet the definition of “disabled person.” For example, individuals who are overweight or have elevated blood cholesterol generally do not meet the definition of disabled person, and thus SFAs are not required to make meal substitutions for them. In fact, in most cases, the special dietary needs of nondisabled participants may be managed within the normal program meal service when a well-planned variety of nutritious foods is available to students, and/or offer versus serve is available and implemented.

For nondisabled participants, the supporting statement shall include:

- A. an identification of the medical or other special dietary need that restricts the participant’s diet; and
- B. the food or foods to be omitted from the participant’s diet and the food or choice of foods that may be substituted.

Reimbursement and Availability of Substitutions

Reimbursement for meals served with an authorized substitute food to disabled participants or to participants with other special dietary needs shall be claimed at the same reimbursement rate as meals that meet meal requirements. Furthermore, there shall not be a supplementary charge for the substituted food item(s) to either a disabled participant or to a participant with other special dietary needs. In providing food services, recipients of Federal financial assistance “may not discriminate on the basis of disability” and “shall serve special meals, at no extra charge, to students whose disability restricts their diet.” While any additional costs for substituted foods are considered allowable program costs, no additional Child Nutrition Program reimbursement is available. Sources of supplemental funding may include special education funds (if the substituted food is specified in the student’s individualized education program), the general account of the SFA, or the nonprofit school food service account.

Accessibility

Where existing food service facilities are not completely accessible and usable, recipients may provide aides or use other equally effective methods to serve food to disabled persons. The SFA is responsible for the accessibility of food service sites and for ensuring the provision of aides where needed. As with additional costs for substituted foods, any additional costs for adaptive feeding equipment or for aides are considered allowable costs. However, no additional Child Nutrition Program reimbursement is available. Sources of supplemental funding may include special education funds (if specified in the student’s individualized education program), the general account of the SFA, or the nonprofit school food service account. Furthermore, recipients must be provided all food services in the most integrated setting appropriate to the needs of the disabled persons.

The program must ensure that disabled persons participate with nondisabled persons to the maximum extent appropriate to the needs of the disabled person in question.

Cooperation

When implementing these guidelines, food service personnel should work closely with the parent(s) or responsible family member(s) and with all other school, child care, medical, and community personnel who are responsible for the health, well-being, and education of participants with disabilities or with other special dietary needs to ensure that reasonable accommodations are made to allow such individuals' participation in the meal service.

Sample Documentation for Special Dietary Needs

Additional prototype forms are available in USDA Food and Consumer Service Publication (2001) *Accommodating Children with Special Dietary Needs in the School Nutrition Programs Guidance for School Food Service Staff*.

A. Information Card (Form 1, Section 13)

It may be necessary to document the special nutritional needs of certain children. This is an example of an Information Card which can be used at the school site to prepare meals daily for the students requiring dietary modifications. Full size form for printing can be found in Section 27, Forms.

B. Eating/Feeding Evaluation (Form 2, Section 13)

This prototype form can be completed by the parent and physician, or appropriate medical authority. Schools must retain copies of special diets on file for reviews. It is important that the family understand that the school is unable to provide food substitutions without an adequate medical order. Full size form for printing can be found in Section 27, Forms.

Form 1 Section 13. Eating and Feeding Evaluation: Children with Special Needs			
PART A			
Student's Name	Age		
Name of School	Grade Level	Classroom	
Does the child have a disability? If Yes, describe the major life activities affected by the disability.	Yes	No	
Does the child have special nutritional or feeding needs? If Yes, complete Part B of this form and have it signed by a licensed physician.	Yes	No	
If the child is not disabled, does the child have special nutritional or feeding needs? If Yes, complete Part B of this form and have it signed by a recognized medical authority.	Yes	No	
If the child does not require special meals, the parent can sign at the bottom and return the form to the school food service.			
PART B			
List any dietary restrictions or special diet.			
List any allergies or food intolerances to avoid.			
List foods to be substituted.			
List foods that need the following change in texture. If all foods need to be prepared in this manner, indicate "All". Cut up or chopped into bite size pieces: Finely ground: Pureed:			
List any special equipment or utensils that are needed.			
Indicate any other comments about the child's eating or feeding patterns.			
Parent's Signature			Date:
Physician or Medical Authority's Signature			Date:

Form 2 Section 13. Information Card	
Student's Name	Teacher's Name
Special Diet or Dietary Restrictions	
Food Allergies or Intolerances	
Food Substitutions	
Foods Requiring Texture Modifications: Chopped: Finely Ground: Pureed or Blended:	
Other Diet Modifications:	
Feeding Techniques	
Supplemental Feedings	
Physician or Medical Authority: Name Telephone Fax	
Additional Contact: Name Telephone Fax	Additional Contact: Name Telephone Fax
School Food Service Representative/Person Completing Form: Title Signature	
Date:	

Questions Answers

1. Q: Does the definition of disabled person include students with allergies, food intolerance, and obese students?

A: We interpret the definition of disabled person to mean that students with the above conditions are generally not considered disabled unless the student's condition substantially limits one or more major life activities. It is up to the child or his/her parent or guardian to request the special meals and to provide medical certification, as described above, from a medical doctor.

2. Q: Where can a food service manager in a school or institution participating in the Child Nutrition Programs obtain assistance in planning appropriate foods for disabled students with special dietary needs?

A: The director of public health nutrition in each state's health department and the State special education director are excellent sources of information on feeding students with special dietary needs. They will be able to either provide direct assistance or refer the food service manager to a local source of assistance.

3. Q: After the special meal has been provided, who is responsible for assisting with feeding if the student cannot feed him/herself?

A: Assistance with feeding is the school's responsibility. It is not the responsibility of the food service manager. Many schools and institutions will already have aides available to provide this service as part of the student's total care plan.

4. Q: If a disabled student's meal requires special preparation, equipment, or feeding utensils, who is responsible for the purchase of such equipment?

A: Section 504 specifies that program administrators must serve special meals at no extra charge to disabled students whose disability restricts their diet. Furthermore, there is no provision for additional Federal reimbursement for the added expense. However, these costs are legitimate program costs that can be paid for out of the general food service funds that include regular Federal reimbursement. If the administering agency is unable to absorb the costs, program administrators should investigate funding sources at the State and local agency level, such as vocational rehabilitation agencies.

Notes: